

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Patrick Randell McIntosh,

Case No. 23-cv-2696 (NEB/LIB)

Petitioner,

v.

REPORT AND RECOMMENDATION

Eric Williams,

Respondent.

This matter comes before the undersigned United States Magistrate Judge upon the routine supervision of the cases that pend before the Court, pursuant to a general assignment made in accordance with the provisions of 28 U.S.C. § 636.

In an Order dated November 1, 2023, this Court ordered Petitioner Patrick Randell McIntosh to file an amended complaint if he wanted this action to proceed as a nonhabeas civil matter. (See Order [Docket No. 9] at 3). The Court gave Petitioner thirty days—that is, until December 1, 2023—to make this submission, failing which the Court would “assume that [Petitioner] means to continue with this action as a habeas action.” (Id.) The Court forewarned Petitioner that, for all the reasons explained in the November 1, 2023, Order, if he failed to file an amended complaint and thus chose to continue this action as a habeas action it would “almost certainly result in a recommendation that [Petitioner’s petition] be denied.” (See Id. at 2–3).

That deadline has now passed, and Petitioner has not submitted an amended complaint. The Court therefore assumes that Petitioner wants this action to proceed as a habeas matter.

As discussed in the Court’s earlier Order, however, Petitioner’s claims here are not cognizable in habeas. (See Id. at 2). The Court therefore recommends denying the Petition. [Docket

No. 1]. Given this recommendation, the Court further recommends dismissing this matter and denying Petitioner's two outstanding applications to proceed in forma pauperis in this action.

Therefore, based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT:**

1. Petitioner Patrick Randell McIntosh's Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241, [Docket No. 1], be **DENIED**;
2. This action be **DISMISSED**; and
3. Petitioner's two Applications to Proceed in District Court Without Prepaying Fees or Costs, [Docket Nos. 4, 8], be **DENIED as moot**.

Dated: January 4, 2024

s/Leo I. Brisbois
Hon. Leo I. Brisbois
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).